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HON. MONTGOMERY BLAIR,

POSTMASTER-GENERAL DURING PRESIDENT LINCOLN'S


ADMINISTRATION.

TO

MAJ.-GEN. FITZ JOHN PORTER.

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To MAJ.-GEN. FITZ JOHN PORTER,
Morristown, N. J.

WASHINGTON, January 26, 1874.

DEAR GENERAL :

You ask me what can be done to get your case reviewed by this Administration. Nothing that I know of. They probably see some trouble, and no political advantage in it, and will let it alone. You can get all you really want—the vindication, if any is yet needed, of your good name in the minds of the people, by getting able and distinguished lawyers, who command the public confidence, to review the record and pronounce their judgment on it. Judge Curtis, and Daniel Lord, and Reverdy Johnson, and others, have given you their clear and positive opinion. I have no doubt Mr. Evarts, and Mr. O'Connor, and Mr. Bartlett, and Judge Black would give you the same opinion. These are among the great lawyers of the day. Men of their stamp would not refuse to do justice to a true soldier suffering under great wrong. No man of sense will regard against their judgment, the finding of all the courts martial or commissions or boards that ever were packed. I do not mean to disparage military courts fairly constituted. But the same securities against prejudice, bias and interest are required in them as in all tribunals.

Undoubtedly you are *entitled* to a hearing by the President. You are under a sentence of disqualification which is still in force, and course of execution. If it were an executed

sentence he might say it was final in law, and rid himself of it in that way. But as the case is, I conceive it to be his clear duty, on an application to the pardoning power, with show of probable cause, to look into it, and if he finds the sentence unjust to issue his pardon. Of course you do not want his pardon, and would refuse to accept it unless he puts it on the ground of your innocence. But your application does not lie only to the pardoning power. Many precedents and a positive statute indicate a more complete remedy, in such case of gross injustice. The President may restore you with consent of the Senate. Undoubtedly it is his duty, if public justice requires it. It is not a mere matter of Executive favor.

I do not see how he can refuse to declare his judgment of your entire innocence, if he will examine the new evidence. It is largely evidence from the side of the enemy which you could not procure during the war. It refutes utterly the conjectural findings of the court Martial. You are as much entitled to this evidence as Bazaine was to the testimony of the German princes and generals. I do not say that this new evidence is necessary to your vindication. I believe with Judge Curtis, and Mr. Johnson, and Mr. Lord, that you are entitled to a full and honorable acquittal on the evidence at the trial; but the new evidence leaves no peg to hang a doubt on. No Judge Advocate (who has his own character to take care of) will assert your guilt in the face of such evidence.

The public, I think, will now look at your case fairly, and no longer through a glass, darkly, of party feeling. When they tried you, the War Department wanted to excuse Pope's defeat, and their share of the business. That honest and able man, Secretary Welles, in his defence of Mr. Lincoln, tells how Stanton met the emergency. He charged the blame on McClellan. He demanded of Mr. Lincoln his instant dismissal. He tried to engage the whole Cabinet in it. He tried to get them all to sign a paper drawn by him to compel

Mr. Lincoln's consent. But Mr. Lincoln thought McClellan only could rally the army and he went to him and asked him to resume the command. That put a check on the business till McClellan was finally removed; and then the charges were worked up against you. The prosecution went on the ground that "the army of Virginia" (Pope's army), which got in behind the defences of Washington, "had nobly performed the arduous and perilous work committed to it. Its campaign was marked by signal vigor and ability." And if you had made "a vigorous attack" the "rebels would have been overthrown" and "Jackson's army" (neither within your reach, nor in the habit of being captured and destroyed, unfortunately for us) destroyed or captured; and that, for "the escape of that army," and the "calamities and untold grief of our people," in the ensuing years of the war, you were chargeable. There was not one word of truth in all this. It had scarcely any color from the evidence at the trial. And now the new evidence sweeps away the whole ground of it. Still I fear that neither the party as a whole, nor the administration will take trouble to do you justice, although you have the testimony of a personal and political friend of President Lincoln that at the time of his death he purposed a re-hearing of your case, by which evidence non-attainable during hostility, might be adduced to your favor; an act so like his just and generous nature. 7

And although you have had the cordial assistance of President Fillmore and other persons of high official position, repeatedly declaring your sentence an unjust one; and although you have had presented the opinion of General Sherman that you could "with propriety petition the President to review your case—to remit so much of the sentence as prevents you from holding office, and to nominate you for some position, the same or similar as that held by you in the regular army at the time you were dismissed;"—

And although you have in your possession, with which

to ever command the attention and respect of the patriotic people of the country, the assurance of that great soldier, General George H. Thomas, that "he could safely assert that not one of your old army friends believed for one moment that the finding of the Court was just—and that it was universally believed that the Court had been misled;"—

And although Vice-President Wilson and Horace Greeley, and Governor Curtin, and Senators Sherman, Foster and Harris, with many other distinguished leaders of the Administration party have recommended to the President the revision you ask for, still I fear your case *must wait*.

One false argument has been used against you with the public—that you disobeyed orders, and "disobedience of orders" with or without serious consequences, is a military crime that justifies the sentence. Now the public do not know that the first part of this proposition is not true in fact, and the second is not military law. Disobedience of orders, according to the motive and circumstances, is an offence of the highest or lowest grade. It may deserve death or a simple reprimand. In small matters and without wrong intention, it is not to be regarded seriously. To be a serious offence in any case, it must be positive and wilful. If it proceed from misconception, from honest motives, from sincere sense of duty, it may be proof of incapacity, but is no crime. Even the best officers may have to plead such excuses. Military life gives frequent occasion for them. "No commander," a great historian tells us, was "so indulgent to such errors" as the great Napoleon: and "no master was so faithfully served." Even when Grouchy failed him at Waterloo, though he thought it as "strange as if an earthquake had met his army and swallowed it up," he was still just and generous enough finally to doubt whether "it was treachery or only misfortune." It is established that you were not amenable to either charge.

In regard to the obligation of orders and "blind obe-

dience" to them, the same great master of war has inculcated that absolute, unreasoning, blind obedience is only due when the commander who gives the order is present. If he be absent, and the subordinate is clear that the order was made in ignorance and error of the situation, and that the commander if present would not make it, he is allowed to exercise his own best judgment as to the execution of it. A grave responsibility of course devolves on him. A selfish, stupid man, may say the order is positive—let the blame be on him who gave it; but that is not the suggestion of a high and true sense of public duty.

In your case, orders which you were convicted of disobeying you were relieved and discharged from in express terms. The first or joint order to General McDowell and yourself—annulled by McDowell's word and act—directed "it should not be carried out if any considerable advantages were to be gained by departing from it," and this discretion was availed of by you all that day to successfully keep Lee from throwing all his forces on Pope's scattered army. The other, or last order—known as the 4:30 P. M. order—even if it had not arrived too late for execution, directed you to advance on the exposed flank of Jackson's army. It was not Jackson's flank before you, but Lee and Longstreet in overwhelming force. The prosecution refused to believe that on the trial. **THEY KNOW IT NOW.** But you knew at the time what Pope did not know. If you had sacrificed your corps, you could not have pleaded the order for it. Orders must be obeyed in good faith: the letter will not justify any act in fraud of the true intent and spirit. General McClellan asserts, and distinguished officers coincide in the opinion, that you acted with excellent judgment and ability in the case. It is clear there was no technical disobedience of orders.

You will, when you get an honest hearing, have the trial set aside as null and void. The artifice of making a staff officer sign the charges in lieu of the military commander to evade the law, which only allows a court to be appointed

and detailed by the President in such a case as yours, is a fetch and contrivance of no validity in law. The Court detailed by General Halleck for Mr. Stanton was in law no court, and there has been no trial, and there is no legal verdict or sentence against you. But this is not what you want. You want the truth brought out and vindicated. You want an investigation on the merits and the evidence; and this I think you will not get at this time. That you will get it one day I have not the least doubt. I believe the truth will always prevail in the end.

It is no new thing to sacrifice a soldier to serve a political turn. Byng's case is one of those which are the opprobrium of "military justice." No historian, no writer of any party in England defends it. Yet at the time no man of his party, except Pitt, had the brave and honest heart to remonstrate with the bigot King against that shameful murder. The like iniquity was attempted against Admiral Keppel—"one of the gréatest and best men of his age," says the greatest of English writers, and "to the eternal disgrace of the nation"—with likelihood of success but for the popular outcry. Public justice will yet come to your rescue.

Yours truly,

MONTGOMERY BLAIR.





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